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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Yolo)

THE PEOPLE,

Plaintiff and Respondent,

v.

RAFAEL RAMOS III,

Defendant and Appellant.

C069666

(Super. Ct. No.
CRF11506)

In January 2011, defendant Rafael Ramos III and two codefendants, all validated members of the Norteño gang, fought with two members of the Sureño gang outside of a convenience store. Because the matter was resolved by plea, our statement of facts is taken from the probation officer's report. Defendant threw a large beer bottle at a Sureño gang member but missed and shattered a store window.

Defendant pleaded no contest to criminal street gang activity (Pen. Code, § 186.22, subd. (a); unspecified section

references that follow are to this code) and admitted a prior strike conviction (§§ 667, subds. (b)-(i), 1170.12). In exchange, three related counts and associated enhancements were dismissed.

Defendant was sentenced to state prison for two years eight months, awarded 147 days' custody credit and 72 days' conduct credit, and ordered to pay a \$200 restitution fine (\$ 1202.4), a \$200 restitution fine suspended unless parole is revoked (\$ 1202.45), a \$40 court security fee (\$ 1465.8 , subd. (a)(1)), and a \$30 court facilities assessment (Gov. Code, § 70373). The relevant 2010 amendment to Penal Code section 2933 does not entitle defendant to additional conduct credit because he has a prior conviction of a serious felony. (Former § 2933, subd. (e)(3) [as amended by Stats. 2010, ch. 426, § 1, eff. Sept. 28, 2010].) This court granted defendant's request to file a belated notice of appeal.

We appointed counsel to represent defendant on appeal. Counsel filed an opening brief that sets forth the facts of the case and requests this court to review the record and determine whether there are any arguable issues on appeal. (*People v. Wende* (1979) 25 Cal.3d 436.) Defendant was advised by counsel of the right to file a supplemental brief within 30 days of the date of filing of the opening brief. More than 30 days elapsed, and we received no communication from defendant. Having undertaken an examination of the entire record, we find no arguable error that would result in a disposition more favorable to defendant.

DISPOSITION

The judgment is affirmed.

HULL, J.

We concur:

NICHOLSON, Acting P. J.

DUARTE, J.